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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/629,894	07/30/2003	Minoru Yonezawa	008312-0305303	6238
909	7590	09/19/2006	EXAMINER	
PILLSBURY WINTHROP SHAW PITTMAN, LLP			DINH, TAN X	
P.O. BOX 10500			ART UNIT	
MCLEAN, VA 22102			PAPER NUMBER	
			2627	

DATE MAILED: 09/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/629,894	Applicant(s) YONEZAWA, MINORU	
	Examiner TAN X. DINH	Art Unit 2627	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) ____ is/are pending in the application.
4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-3,7-13 and 17-21 is/are rejected.
- 7) ☒ Claim(s) 4-6 and 14-16 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

1) Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

2) The I.D.S filed 7/30/2003, 11/09/2004 and 7/25/2005 have been considered by the Examiner. However, the Japan and/or foreign document(s), if they have not been written in English, are considered to the extent that could be understood from the English Abstract and the drawings.

Form PTO-1449 or PTO/SB/08 is(are) attached herein.

3) Claims 7 and 17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The phrase " the control unit controls the optical head ... than the optical head " is unclear and cannot be understood. What is the meaning of this phrase ?.

4) The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

5) (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6) Claims 1,2,10-12 and 21 are rejected under 35 U.S.C. 102(b) as being anticipated by SEKI CHIKAKI (JP, 2000-048378).

SEKI discloses an optical disk device as claimed in claim 1, comprising:

an optical head which emits a laser light to an optical disk having a recording layer and receives a reflection light to carry out one of a recording process and reproduction process (optical head for emitting laser beam is inherent in every optical disk recording and reproducing device, see abstract);

a detecting unit which detects a distribution of a recorded region and an unrecorded region of the optical disk based on a reflection light received by the optical head (photo-detectors are inherent in every optical disk recording and reproducing device, without photo-detectors the signals and/or data cannot be processed); and

a control unit which controls the optical head so as to make access to a target position of a recording layer of the optical disk while avoiding the unrecorded region based on a distribution of a recorded region and an unrecorded region detected by the detecting unit (see abstract).

As to claim 2, SEKI shows the control unit sets a second target position in front of the target position, moves the optical

head thereto, and then traces it to the target position (see the abstract, in this case, the seek target is second target position as claimed).

Claim 10 adds to claim 1 the features of sets a second target position in front of the target position, moves the optical head thereto, and then traces it to the target position, which is shown in SEKI's abstract (in this case, the seek target is second target position).

Method claim 11 is drawn to the method of using the corresponding apparatus claimed in claim 1. Therefore, method claim 11 is rejected for the same reasons of anticipation (obviousness) as used above.

Claim 12 is rejected with the same reasons set forth in claim 2 above.

Method claim 21 is drawn to the method of using the corresponding apparatus claimed in claim 10. Therefore, method claim 21 is rejected for the same reasons of anticipation (obviousness) as used above.

7) The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art

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are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8) Claims 3,7-9,13,17-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over SEKI CHIKAKI (JP, 2000-048378).

SEKI discloses all the subject matter as claimed in claims 3, and 13, except to specifically show that the optical head is capable of jumping from one recording layer to the other recording layer and vice versa. However, the feature of interlayer jump to find target position are old and widely used in the optical recording art (see KAWASAKI (5,696,743), figures 5 and 6, or KURODA (6,370,091), figure 1). Therefore, to perform interlayer jump between recording layers as claimed is deemed obvious to someone within the level of skill in the art.

As to claims 7-9 and 17-20, it would have been obvious to position the optical head at inner portion, outer portion, land portion or groove portion in SEKI's optical disk device since the optical head could be controlled to move to any locations on any desirable layer for recording or reproducing information data.

9) Claims 10 and 21 are further rejected under 35 U.S.C. 102(b) as being anticipated by YANAGI (5,121,370).

YANAGI discloses an optical disk device as claimed in claim 10, comprising:

an optical head which emits a laser light to an optical disk having a recording layer and receives a reflection light to carry out one of a recording process and reproduction process (Fig.1A, optical head 2); and

a control unit which sets a second target position in front of the target position in order to cause the optical head to access a target position of a recording layer of the optical disk, moves the optical head thereto, and then controls it to be traced to the target position (abstract).

10) Claims 4-6 and 14-16 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

11) The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Applicant is reminded that in amending in response to a rejection of claims (if the rejection involves with any applicable arts), the patentable novelty must be clearly shown in view of the state of the art disclosed by the references cited and the objection made. Applicant must also show how the amendments avoid such references and objections. See 37 CFR § 1.111(c).

Form PTO-892 is attached herein.

12) Any inquiry concerning this communication or earlier communications from the examiner should be directed to TAN XUAN DINH whose telephone number is (571)272-7586. The examiner can normally be reached on MONDAY to FRIDAY from 9:00AM to 5:00PM.

The FAX phone number for the organization where this application or proceeding is assigned is (571)273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at (866)217-9197 (toll-free).



TAN DINH
PRIMARY EXAMINER
September 14, 2006